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DEVELOPMENT OF INTERNATIONAL LAW IN THE WESTERN HEMISPHERE

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It is almost axiomatic to say that any development of International Law in the Western Hemisphere must come as a development of the Monroe Doctrine—that all-elastic and heretofore unilateral policy of the United States of America towards Central and South America.

This is because no major development of International Law is possible in the Western Hemisphere without the agreement or even leadership of the most powerful nation of that hemisphere. If the United States is to lead, and past and present movements indicate this fact beyond question, its leadership has always been and is now being expressed in terms of the "Monroe Doctrine."

I. THE ORIGINAL MONROE DOCTRINE: WHAT BECAME OF IT?

Lest one be misled into thinking that the United States by nowadays using the Monroe Doctrine label for its Western Hemisphere foreign policy is in fact using the same original policy of the past, it is necessary briefly to analyze some of the attitudes that have been taken by the United States under the shade of that old umbrella, the Monroe Doctrine, and their result as interpreted by writers, jurists and scholars in the light of prewar (World War II) classical International Law. We shall find that not only has the American (U. S. A.) attitude changed several times but also the Doctrine now purports to assume a new internationally legal position of considerable weight and importance.

"Mr. Tilden," says Mr. Kirby Page, "once observed that he thought the Monroe Doctrine might be a good thing if one could only find out just what it was."

John Hay once coupled the Monroe Doctrine with the golden rule as cardinal elements in our foreign policy. Twenty-eight years ago Albert Bushnell Hart pointed out that "its meaning and immediate cogency are still uncertain and disputed." He expressed the opinion that it is a "power of mind." Hiram Bingham says that "there are probably no two words in American history which have been more variously interpreted, which have meant more things to more people, and which have been more highly praised by some and more bitterly

condemned by others." One writer says that "the Monroe Doctrine is a blank check on which any sum may be written by the State Department in Washington." While Professor Hart says that "the number of doctrines since 1849 is about the same as the number of secretaries of state." In 1920 David Jayne Hill said that the only definite and settled aspect of our foreign policy was the Monroe Doctrine—but added, "whatever that may imply." An English writer has discovered "one of the most singular ironies of history in the flat contradiction between its primitive and present tendencies . . . ."

What are now the five points that may be detected from an intensive reading of the original message of President Monroe?

(1) The American continents "are henceforth not to be colonized by any European powers."

(2) Any effort to extend the European *monarchical system* "to any portion of this hemisphere" would be considered as "dangerous" to our peace and safety.[1]

(3) "With the *existing colonies* or dependencies of any European power we have not interfered and shall not *interfere.*"

(4) The determination of the United States not to become involved in *European controversies* is proclaimed in the following words: "In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy so to do . . . Our policy in regard to Europe . . . is not to interfere in the internal concerns of any of its powers."

(5) The policy of *non-intervention* by the United States of America in the affairs of *other American countries* was announced. "It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course."

But can there be any doubt that nothing remains in today's international circumstances of any of the five issues to which the original Monroe Doctrine was directed?[2]

(1) The question of future *colonization* of the Western Hemisphere by European powers has long been an impossibility and a dead issue.

(2) Since the *monarchical* system is barely alive in Europe and not at all in the Western Hemisphere, this issue is likewise obsolete.[3]

(3) As to existing colonies, the United States has in fact had cause to interfere in Cuba, and is now interfering in certain British-West Indies possessions—the former without the consent of the then mother country, Spain, in violation of this point.

(4) The United States' participation in the European controversies

[1] However, as we shall see later, the situation in which the U. S. A. now finds itself has caused it to deduce new applications of the Monroe Doctrine to the totalitarian powers of Europe.

[2] *Supra* n. 1.

[3] *Supra* n. 1.

of World War I, and its present participation in World War II virtually abandons this point.

(5) As to other American countries, in so far as the United States meant this article as a self-prohibition on its own interference in Central and South America, the 1920-30 expeditions to Nicaragua, etc., have repudiated this promise.

Now this result leaves the United States in a most extraordinary situation. We are in exactly the position in which Alice in Wonderland found herself when the cat had gone. The cat had gone but the grin remained. The five points of the Monroe Doctrine have gone, but the Monroe Doctrine is supposed to be there nevertheless. How can that be? We profess a doctrine deprived of its original contents. We have put other contents inside, and the Monroe Doctrine is in name still there.

We do not need to dwell on the variety of interpretations given to the Doctrine during the past one hundred twenty years. A few examples must suffice: President Theodore Roosevelt, with his magnificent elasticity for leaping from one opinion to another, finally suggested that under the Monroe Doctrine the United States was a compulsory intermediary between European nations and American nations other than the United States whenever there is a controversy between them. Through this interpretation we have seen a growing practice during the last twenty-five years by the European nations of referring difficulties between them and American states to Washington, so that Washington may intervene as mediator and, if things go awry, exert the necessary pressure.

A second interpretation connected with the foregoing, indeed in the very words of President Theodore Roosevelt, is that the United States of America should appear before the world as the *guarantor* of the good international behavior of the other nations of the continent.

A third interpretation is the extension of the principle of *self-defense* to include the whole continent. If we read, for instance, the remarks which accompany the Senate's reservations to the Kellogg Pact of 1928 for the Renunciation of War, we shall see clearly how the Monroe Doctrine is considered as an extension of the principle of self-defense in such a way that it would, by the sole decision of the United States, cover anything that happened anywhere in the American continent provided that the United States thought fit so to consider it.

From the time of President Theodore Roosevelt up to the advent of President Franklin D. Roosevelt and his "Good Neighbor" policy, intervening events have corroborated those interpretations so that by the end of that period the Monroe Doctrine could probably be said to have meant the following:

First it meant the compulsory intermediary action of the United

States of America between extra-American nations and other American nations in the Western Hemisphere.

It meant, secondly, a tendency to regard the United States as the *guarantor* of the good behavior of the other nations of the continent towards nations outside the continent.

It meant, thirdly, the indefinite extension of the principle of *self-defense* to cover anything that the United States considered to be self-defense.

Now all of these interpretations have represented an absolutely *unilateral* interpretation of the Doctrine by the United States. This has been the fundamental principle running through the Monroe Doctrine from the very beginning under President Monroe until the present date. It has never represented a principle accepted as international customary law by the common understanding of several nations.

When the League of Nations was created considerable thought was given to the place of the Monroe Doctrine. Article 21 of the Convenant of the League reads as follows:

> "Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine, for securing the maintenance of peace."

The Monroe Doctrine was *not* a regional understanding. If there is one thing which stands out clearly from every pronouncement, however differing in other contents, of every statesman, of every jurist, of every senator, of every publicist of the United States, it was that the Monroe Doctrine was a unilateral pronouncement of the United States of America, and that no one but the United States government can interpret, define or apply it.

It can clearly be seen that the outstanding feature of the Monroe Doctrine in its relation to the general rules of International Law has always been the unilateral character of the policy proclaimed. From the day when President Monroe and his secretary of state, John Quincy Adams, decided to make the declaration independently of any parallel announcement by the British Foreign Office, the Doctrine has always been regarded by the United States as its own peculiar property. When Secretary Hughes stated in 1923 that "as the policy embodied in the Monroe Doctrine is distinctively the policy of the United States, the government of the United States reserves to itself its definition, interpretation and application"[4] he was able to quote similar statements of Secretary Root in 1914[5] and of President Wilson in 1916[6] in support of his position.

[4] 17 AM. J. INT. L. (1923) 611, 616.
[5] Address before American Society of International Law, 1914.
[6] Address before the Second Pan-American Scientific Congress, Jan. 6, 1916.

II. But the Question Must Arise, Was the Monroe Doctrine Ever Recognized by Other American States?

The Argentine representative in the Committee on Arbitration and Security, having heard of Article 21 during the discussions, delivered himself of the following pronouncement:

> "It is my duty to make objections, in the name of historical accuracy, to the wording of Article 21.
>
> "The Monroe Doctrine mentioned in the article is a political declaration of the United States. The policy expressed or enshrined in this declaration in opposing, when it was made, the designs of the Holy Alliance, and in removing the threat of a European reconquest of America, was, by a fortunate coincidence of principles, of very great service to us at the beginning of our existence. We fully recognize that in this sense the declaration has done and always will do great honor to the United States, whose political history contains so many fine pages with reference to freedom and justice. It would be untrue—it is, in fact quite untrue—to give as Article 21 gives, even by way of an example, the name of regional agreement to a unilateral political declaration which has never, as far as I am aware, been explicitly approved by other American states."

Senor Cantilo, the author of this statement, was not correct in saying "other American states" because it has been approved sometimes by some of them.

Has this Monroe Doctrine, in any form, ever been recognized by the American states as a general principle of American International Law? Have any specific doctrines or rules been so recognized? These are the questions which we must now answer.

(1) In illustrating the answer to our first query we have the curious case of Chile, Bolivia and Peru. These nations found themselves in difficulties in one of the Assemblies of the League of Nations, Bolivia having complained about the way Chile had or had not applied the tenets of their treaty relating to peace. It is a curious case because it is a case in which a South American state found it convenient at the time to invoke the Monroe Doctrine in order to get rid of an unpleasant discussion before the Assembly. Chile wrote on September 3, 1921, to the Assembly refusing to have the question dealt with in Geneva:

> "The use, however, of the expression 'regional understandings like the Monroe Doctrine,' in Article 21 of the Covenant, amounts to a formal recognition of the principle of American International Law, according to which the non-American states, and consequently the Assembly, cannot interfere in questions exclusively affecting countries of the New World."

In addition there are other cases wherein statesmen and publicists of certain South American and Central American nations have pro-

claimed their adherence to the principles, as they conceived them, of the Monroe Doctrine. But there can be no doubt that a purely unilateral declaration, as indeed it was, cannot be said to be a rule of law when it is to be applied at the whim and in the particular interest of the party acting.

(2) We have now to consider whether there have been recognized any other specific doctrines or rules, between nations of the American Hemisphere which could possibly be interpreted as a rule of American International Law analogous to the Monroe Doctrine.

In the celebrated note of December 29, 1902, from Sr. Luis Drago, minister of Foreign Affairs of the Argentine, to the Department of State on the occasion of the joint intervention of Great Britain, Italy and Germany against Venezuela, the Drago Doctrine was announced. The argument led up to the recommendation of the proposed policy intended to be a corollary to the Monroe Doctrine, that "The public debt (of an American state) cannot occasion armed intervention, nor even the actual occupation of the territory of American nations by a European power."[7]

The Drago Doctrine, as it is known, is corollary in itself to this other principle of American International Law known as the Calvo Doctrine.

Whether from a lack of confidence in the local standards of justice or from sheer arrogance, nationals of the United States and certain European states notoriously refused to resort to local remedies in Latin American countries during the 19th and early 20th centuries. Hoping to retain the benefits of foreign capital while preventing frequent diplomatic intervention on behalf of resident foreigners, the Latin American states attempted by treaty, constitutional provision, statute and contracts with aliens to secure observance of the rule that aliens must resort to the local courts for settlement of their disputes. These stipulations, developed from the writings of the celebrated Argentinian jurist, Carlos Calvo, and asserting "the final jurisdiction of the local courts over the claims of aliens, with a denial of the right to diplomatic recourse," have come to be known as the Calvo Doctrine.[8]

While the Calvo clause and the Drago Doctrine have not been universally accepted by all international tribunals and publicists, still the Central and South American states have unanimously regarded them as settled principles of American International Law, with the acquiescence of the United States and most international tribunals to the general proposition contained within those doctrines.[9] Of the 27 cases involving the Calvo clause, 11 have denied the validity of the clause

[7] U. S. FOREIGN RELATIONS (1903) pp. 1-5.
[8] BORCHARD, DIPLOMATIC PROTECTION, 792-93, for Calvo's statements.
[9] U. S. North American Dredging Claim v. United Mex. States—Commission 1926.

and 16 have either upheld the clause as a bar to international reclamation or have assumed that the clause might have some validity in certain cases (usually with the proviso that it would not prevent international commissions taking jurisdiction over claims for denial of justice or some other violation of International Law.)[10]

III. In View of the Foregoing History, We Are Now in a Position to Ask, In What Direction May Future Developments Be Expected?

(1) *Declaration of principles.* In his inaugural address of 1933 President Franklin Roosevelt announced that the United States was henceforth to be governed by the policy of the "Good Neighbor." The first legal step toward this new policy was the calling of the Montevideo Conference in 1936 for the Maintenance of Peace. The Convention on Rights and Duties of States there adopted provided that "no state has the right to intervene in the internal or external affairs of another."[11] Following the conference at Montevideo the United States took further steps to apply the new treaty by the abrogation of the Platt Amendment[12] and the treaty with Panama removing restrictions on its sovereignty imposed by the Treaty of 1903.[13]

There followed the task of transforming the Monroe Doctrine from a unilateral policy of the United States into a multipartite policy of all the American Republics. This was first attempted in 1936 at the Buenos Aires "Inter-American Conference for the Maintenance of Peace." A Brazilian proposal using phrases associated with the Monroe Doctrine, proclaimed the interposition of a non-American power in the affairs of an American state to be an unfriendly act, and pledged the contracting parties immediately to consult with one another. The reference in the draft to a non-American power was objected to by the Argentine because it appeared to "imply a kind of Monroeism"[14] with the result that the phrase was generalized to state "in the event the peace of the American Republics is menaced."[15] Broad as was its language the convention nevertheless affirmed the principle that the American Republics had a common interest in the protection of any one of their number against attack. The Additional Protocol supplementing Article 8 of the Montevideo Convention, not only declared "inadvisable" the intervention of any one of the high contracting parties "directly or indirectly, and for whatever reason, in the internal or external affairs of any other of the parties," but went on to provide that in the event of violation of the agreement there should be "mutual

[10] *See* Borchard, 800-810; Moore Digest, 293-309; Feller, 185-200; *Calvo Clause* 19 Va. L. Rev. 459 (1933).
[11] Report of the Delegates, 165, 7.
[12] Treaty with Cuba, May 30, 1934.
[13] Treaty of March 2, 1936.
[14] 31 Am. J. Int. L. (1937) 201, 203.
[15] Report of the Delegates, 116.

consultation" with the object of exchanging views and seeking methods of peaceful adjustment.[16] Here we see the adoption of the Calvo or Drago principle by all of the twenty-one republics and the outlawing of the principle of Roosevelt (Theodore) intervention.

It remained for the Eighth Inter-American Conference of American States of 1938 at Lima to give greater definition to the principles accepted at Buenos Aires.

The United States now felt as if the warning of President Monroe that we should consider as dangerous to our peace and safety any attempt on the part of the European powers "to extend their system to any portion of this hemisphere," had present application in the efforts of the totalitarian states to undermine the domestic institutions of the Latin-American Republics. The "second leg" of the doctrine as Secretary Hull described it, was now at issue as well as the first, and in the face of the challenge it was imperative that the American Republics should stand together and proclaim their joint purpose to resist internal as well as external threats to peace.

The Declaration of Lima must be taken both as a statement of principles and as a pledge of action in regard to them.[17] The principles are set forth in the preamble. It is there asserted that the spiritual unity of the American Republics has been attained through (1) the similarity of their republican institutions, (2) their unshakable will for peace, (3) their profound sentiment of humanity and tolerance, and (4) their absolute adherence to the principles of International Law, of the equal sovereignty of states and of individual liberty without religious or racial prejudices.

The terms of the first and second articles of the Declaration are broad, and they clearly include not only an armed attack by any non-American power, but subversive propaganda and other forms of indirect attack. The third article proclaims the "common concern" of the governments of the American states and their "determination" to take effective action in concert ("to make effective their solidarity"). The states are to consult on a basis of absolute equals in sovereignty.

There is no doubt that the Declaration was the high point in the development of the Monroe Doctrine into rules of American Public International Law. Of course, it dealt with many matters that were not capable of precise legal definition. But where it could be specific it was and it went far beyond any mere attempt at a system of collective security. Certain domestic conditions have made a limited freedom of action essential in order that the common aim be attained, but this common aim is present, clear, and impossible of misconstruction.

The Monroe Doctrine had now taken on a multilateral character.

[16] Report of the Delegates, 124.
[17] State Department Press Releases, Vol. XIX, pp. 494, 495, § 31 (1938).

The principles remaining in it have been accepted by the whole body of American Republics. The unilateral assertion by the United States of the necessity of protecting the Western Hemisphere against aggression from abroad was now the declaration of the hemisphere itself (Canada excepted).

(2) *Application to specific measures.* With this collective neutrality established it appeared that the machinery for consultation began to move forward. Rumors of U-boat operations and other talk of neutrality violation in this hemisphere were the common experience of many Latin-American nations after the outbreak of war. There was no doubt that these nations desired to work together.

(a) On September 6, 1939, Panama called a conference of the governments of the American Republics. The decision of the final act which received far the greatest amount of attention and aroused the most controversy was the so-called Declaration of Panama. This resolution was signed by the twenty-one American Republics establishing the safety zone, defining its limits, and stating that the American Republics "as of inherent right" were entitled to have the waters of this area kept "free from the commission of any hostile act by any non-American belligerent nation."[18] That this declaration involved a revision of what was formerly considered international law, that it confused the "rights" of the belligerents and that apart from these defects it was practically unenforceable, does not matter for the present purpose. Suffice it to say that the multilateral character of the American Public International Law had successfully passed through its first test.

(b) On July 22, 1940, the Havana Conference of Foreign Ministries of the American Governments was called.[19] The purpose of the Conference was to discuss three sets of problems and conditions with which the American states were then confronted, and in pursuance of and under the machinery of the conferences of Buenos Aires, Lima and Panama.

The first question related to the possible transfer of sovereignty at any time over certain islands and regions from one non-American state to another non-American state.

The second involved protective measures against the threat of subversive activities in the American nations directed from outside the continent.

The third comprised preparatory solutions for the extremely grave economic difficulties and dislocations resulting from the war.

The Convention, in solving Question 1, decided that such a transfer would not be permitted but that any islands so threatened with trans-

[18] Department of State Bulletin, Vol. I, pp. 331-333, Oct. 7, 1939.
[19] Department of State Bulletin, Vol. III, No. 61, pp. 127, 145, Aug. 24, 1940.

fer were to be taken over and administered by an "Inter-American Commission of Territorial Administration" leaving each nation free to act independently in an emergency. This decision, it seems, is an extension of the original Monroe Doctrine principle that no new colonization would be permitted in the Western Hemisphere. Now, however, it assumes the dignity of a rule of American Public International Law.

In solving Question 2 the nations represented decided to prevent and suppress activities directed, assisted or abetted by foreign governments or foreign groups or individuals which tend to subvert the domestic institutions or to foment disorder in the internal political life of the Americas. Immediate consultation is provided for in the event the peace of any of the American Republics is menaced by such activities, and for a full interchange of subversive information.

The decision to extend to the totalitarian powers the prohibition contained in Monroe's original message against the spread of the monarchical systems of Europe and its multipartite adoption by the twenty-one American Republics now found further development in this attempt to curb the spread of European political doctrines by close examination of the misuse of diplomatic and consular privilege by those totalitarian powers.

This latter development is new, not only to the International Law of the Western Hemisphere but to the International Law of the world. In view of recent events little doubt can exist that the movement of International Law in this direction is warranted by every circumstance of new conditions of the times.

However, it is when we come to Question 3 and the economic field that we find the most remarkable joint effort by the American states to act in unison according to rules and procedures of their own choosing. Very little, if any, of the ordinary classical International Law was concerned with economics. The Habana Conference set up machinery to arrange for the proper economic readjustment of the Western Hemisphere *in terms of a hemisphere economy.*

In this connection particular attention was paid to the coffee surplus of Brazil. An Inter-American Coffee Board was created to study the situation and to make annual quota allotments on the amount of coffee each exporting country could send to the United States. It was felt that any serious loss of revenue, particularly in Brazil, might lead to serious domestic difficulties which might prove inimical to continental solidarity.

In the absence of this agreement, a totalitarian state might well have it in its power to dictate terms to the coffee-producing states of this hemisphere and might disorganize prices in the world market.

The full purpose of the Habana Conference was expressed by Sec-

retary Hull, in the statement which he made on leaving Washington to attend the Conference:

> "A major purpose of the Habana meeting is full and free consultation among the American Republics with respect to the conditions, problems, difficulties, and dangers confronting each of them. The complete exchange of information enables each government thoroughly to understand the problems, needs and viewpoints of the others. The ground will thus be prepared for the adoption of basic and concrete measures having common support for the common benefit of each and all of the Republics." (Department of State Bulletin, July 20, 1940, Vol. III, No. 56, p. 34.)

(c) On January 28, 1942, the Third Conference of Foreign Ministers was called in Rio de Janeiro as a result of a communication by the Foreign Minister of Chile, Senor Rossetti, addressed to the Pan American Union, proposing that in view of the unjustified aggression against the United States by a non-American power, and pursuant to Resolutions XV and XVII adopted by the Habana Conference "a conference be held to consider the situation that has arisen and to adopt the most adequate measures demanded by the solidarity of our nations and the defense of the hemisphere."[20]

Mexico, Venezuela and Colombia united in presenting a project (No. 21) calling for the breaking off of "political, commercial and financial relations" with Germany, Italy and Japan. The proposed resolution was in conformity with the principles of continental solidarity accepted at Lima and Habana.[21] Argentina and Chile refused to accept the resolution in that form and it was rephrased to permit freedom of individual action.

The resolution, as adopted, reads:

> "The American Republics, in accordance with the procedures established by their own laws and in conformity with the position and circumstances obtaining in each country in the existing international conflict, recommend the breaking of their diplomatic relations with Japan, Germany and Italy since the first mentioned state attacked and the other two declared war on an American country."

Common consultation must first precede reestablishment of diplomatic relations once broken.[22] Since that resolution was passed, every participating American state has either declared war on or broken off relations with some or all of the Axis powers.[23]

In excess of seventy-five prospective resolutions were presented and considered by this conference, dealing with hemispheric economy,

[20] THIRD MEETING OF THE MINISTERS OF FOREIGN AFFAIRS OF THE AMERICAN REPUBLICS; Special Handbook prepared by the Pan-American Union, p. 1.
[21] I DIARIO, No. 6, p. 11.
[22] Art. 4.
[23] 77 PAN-AMERICAN UNION BULLETIN.

credit, commercial agreements,[24] and, for the first time, the relations of the inter-American regional system to the world organization for the maintenance of peace.

Following the principles adopted at Habana and before, the conferences established the "Inter-American Juridical Committee" for the "consideration of measures which might be undertaken by the American Republics now for the development of certain common objectives and plans which would contribute to the reconstruction of world order."[25]

IV. SUMMARY OF THE ACHIEVEMENTS

What are the premises of American Public International Law as they stand today in the light of the foregoing conferences?

A multipartite agreement has been arrived at between twenty-one American Republics to support each other in the defense of certain formulated rules of international conduct, these rules to be operated by a defined procedure acting not individually but for all (except in stated cases of emergency when one may act alone, such action to be ratified by all).

The rules of conduct so far established may be listed as follows:[26]

(1) *Joint defense* of the Western Hemisphere from attack by *any* power.

(2) Refusal to permit the *transfer of any territory* in the Western Hemisphere owned by any non-American power to another non-American power.

(3) Refusal to permit the misuse of *diplomatic and consular privilege* by certain European powers, the latter for spreading political doctrines destructive of the democratic tradition of the Western Hemisphere.

(4) A plan to revise and readjust the economy of the *Western Hemisphere* as a unit with main regard for the welfare of the twenty-one American Republics and their economic improvement by specific acts as a unit in their commercial relations with each other and the world.

To these premises must be added the pre-existing Drago and Calvo doctrines, but in qualified form, that no nation may collect or attempt to collect any public debt from an American state by force of arms or threat of force. Nor under the prevailing amicable spirit of the "good neighbor" will any American state press diplomatically, the financial claims of its subjects against any other American state without just cause and without the citizen of the complaining state having first

[24] I DIARIO, No. 13, p. 6.

[25] THIRD MEETING OF THE MINISTERS OF FOREIGN AFFAIRS OF THE AMERICAN REPUBLICS; Programs and Regulations, Pan-American Union (1941).

[26] The Marine Neutrality Zone created by the Declaration of Panama has proven an empty gesture despite the efforts at a neutrality patrol which have been made.

exhausted all judicial remedies available to him under the law of the state complained against.

V. Prospective Development

It seems clear that any prospective development of International Law we can now conceive of must be deduced from the foregoing generalizations. What are the deductions that we can make?

(1) *Joint Defense of the Western Hemisphere.* It seems certain that steps must be taken jointly by the United States and the Latin-American nations should an attack be made on any one of them. This proposition logically[27] leads the twenty-one American states to war if any one of them are attacked by a non-American power. This proposition does not lose its force because some of the American nations have not followed the U. S. A. to war. Rather the strength of the agreement is shown by the surprising unanimity. It will no longer be the sole responsibility of the United States to decide whether or not its interests are affected. Any majority action by the twenty-one Republics in conference or otherwise declaring that a state of war exists between themselves and a non-American power *through* the aggressive action of that power must, under the rules laid down, lead to a United States declaration of war.

Towards this aim of self-defense the parties will undoubtedly establish joint military and naval bases at strategic points all over the Western Hemisphere irrespective of the territorial sovereignty wherein they may be placed. To a certain extent this has already been done.[28]

This indeed will be a new and startling development in the law of nations in the light of our "New Monroe Doctrine" and may well lead to a fundamental alteration of the notion of sovereignty.

(2) *Refusal to permit any transfer of territory from one non-American power to another non-American power.* This is clearly a rule new to international law of any kind. It is distinctly concerned only with the Western Hemisphere and is a proposition which must be marked as characteristic of this new development of American Public International Law.

What obligations will the enforcement of this rule impose on the United States of America and the other twenty American states?

Prior to our entry into the war, the United States Navy maintained a virtual blockade of the French Island of Martinique, ostensibly to prevent transfer of that island or its naval and military possessions. It seemed clear that any attempt to transfer possessions or control of that island to Germany or some other non-American power would have required the resistance of the United States fleet.

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[27] Although probably not "legally."

[28] Reasons of military security do not permit a listing of American bases on Latin-American soil.

Although the rule has been laid down in general terms, *i. e.*, all parties signatory to the Habana Conference are to *consult* concerning the prevention of any proposed violation, freedom of individual action was intentionally retained so that any individual state capable of immediate and effective resistance could prevent a quick attempt at military seizure. Of course this means that the United States is charged with the primary duty of preventing any such transfer with such aid as the other republics can give to be forthcoming at such times and in such amounts as their limited resources permit.

The committee named to govern such territories, which are to be taken and administered in the name of the twenty-one American Republics, will undoubtedly govern such territories according to the general spirit of Western Hemisphere government as it is described in the Final Act of the Buenos Aires Convention, *i. e.*, democratic in form with the traditional freedoms of speech, assembly, worship, and press.

In the event that the European nations who during the course of this war have lost certain of their American possessions, are finally victorious, it would seem to follow that such territory in the possession and under the control of the Inter-American Committee would perforce be transferred back to their original owners.

(3) *Refusal to permit the misuse of diplomatic and consular privileges by European powers so that they might more easily spread their political doctrine.* This would mean that the American Republics are prepared *jointly* at some not too distant future to reformulate the proper limits of diplomatic and consular privileges and to lay down strict rules concerning the conduct and the size of such diplomatic and consular staffs within their territorial boundaries.

Following this, any member of any diplomatic or consular staff in any American state who would be ousted from that state for subversive activities in violation of the "hemisphere rule" would automatically be refused admission as a diplomat, agent or consul or possibly as a private citizen by the remaining American states.

Close examination, observation and registration of all European agents, diplomats, consuls, commercial attaches and, as stated above, even citizens, would be maintained by means of a joint committee of the American states and close and frequent transfers of information between the various states.

(4) *An attempt to revise and readjust the economy of the Western Hemisphere as a unit, self-sustaining as far as possible, with main regard for the welfare of the twenty-one American states and their economic improvement by means of specific acts in their commercial relations with one another and the world.* Following the Hemisphere Coffee Agreement there seems great probability that new conferences

will lead to even greater economic cooperation between the American states. Rules of economic conduct on a par with rules of political conduct will undoubtedly be formulated and a violation of such an economic rule of international law will cause the application of such sanctions as might usually be applied.

The object of course is the economic independence of the Western Hemisphere so as to improve the political position of the weaker states of the hemisphere. Any act or series of acts which tend toward this aim may well be expected by the joint action of the group and the action of one state of the group assisting other members of the group.

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The twenty-one American Republics[29] aim at a politically, socially and economically unified hemisphere immune from attack either economically, politically or by military action. They aim at a unified hemisphere governed by multipartite agreements resulting from discussions and free debate between the twenty-one states as equals. They aim at the enunciation of certain rules of political, social and economic conduct to which we have given the name of the "New Monroe Doctrine" or the rules of "American Public International Law." Toward these aims they must of necessity join forces in all three fields, and they must establish a permanent organization including a court of justice with power to settle disputes among themselves.

It is still too early to tell whether the framework of the new world organization outlined at the recent Dumbarton Oaks conference will include regional agreements of the type referred to above. If we are to take the Covenant of the League of Nations as a guide (Article 21) the United Nations agreement will specifically acknowledge such regional understandings. But whether our world organization recognizes the "New Monroe Doctrine" or not, the economic, geographic, and political forces which have given rise to this solidarity of the 21 American Republics will not be stayed. Regional understandings may or may not be inimical to the successful functioning of a world organization but unless the world organization is able to completely satisfy the needs of and enforce its decisions on all the republics of the Western Hemisphere the growth of a strong regional system seems certain.

[29] The present position of Argentina is not regarded as significant. The successful conclusion of the war in Europe and the Pacific will undoubtedly result in the reestablishment of a truly democratic regime or a regime sympathetic to democratic ideals and pledged to "continental solidarity."